

2/4/4/1/2/18

CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE 4
FUNDAMENTAL RIGHTS**

3 April 1995

Room M 46

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 4 MEETING

FUNDAMENTAL RIGHTS

Please note that a meeting of the above Group will be held as indicated below:

Date : Monday, 3 April 1995
Time : 18h00 - 21h30
Venue : Old Assembly Chamber

AGENDA

1. Opening
 2. Minutes
 - 2.1 Theme Committee 27 March 1995 : Pages 3 - 9
 3. Matters Arising: See Agenda Items Below
 4. Core Group Report: No documentation
 5. Party Submissions: See separate document entitled "**Party Submissions**"
 - 5.1 Right to Privacy (See Documentation 20 & 27 March 1995)
 - 5.2 Servitude and Forced Labour
 - 5.3 Freedom and Security of Person
 6. Public Submissions: Synopsis of Submissions (5.1 - 5.3 above)
Pages 10 - 16
 7. Technical Committee
 - 7.1 Work Programme & CA Schedule: Pages 17 - 25
 8. Any Other Business
 9. Closure
-

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CONSTITUTIONAL ASSEMBLY

**MINUTES OF
MEETING OF**

**THEME COMMITTEE 4
FUNDAMENTAL RIGHTS
27 MARCH 1995 (AT 14H00)**

PRESENT

Mdladlana MMS (Chairperson)

Asmal KA	Myakayaka-Manzini YL
Cachalia IM (alt)	Ntuli MB
Chalmers J	Pandor GNM
Coleman M	Piliso M
Gamndana T	Radue RJ
Govender D (alt)	Ranchod B
Grove SP (alt)	Rhoda RT (alt)
Kgoali JL	Saloojee E
Lubidla EN (alt)	Selebi JS
Mabandla BS	Skosana BM
Mashamba TGG	Surty ME
Mfayela SB	Thabethe E (alt)
Mfebe MW	Tshivhase TJ
Mncwango MA	Viljoen V
Mohammed IJ (alt)	Vos SC
Molekane RS	Xingwana LM

APOLOGIES: Bakker DM, Camerer SM, Green LM, Leon AJ, Mulder CP, Sizani RK, Rasmeni SM,

J Tsalamandris, Z Adams, S Liebenberg, and H Cheadle were in attendance.

1. OPENING

- 1.1 The chairperson noted with concern the absence of the certain parties as a result of meetings of parliamentary committees. He also noted that Mondays' are supposed to be set aside for Constitutional Assembly work and that this matter be raised with the Speaker's Office.
- 1.2 The Committee agreed to proceed with the agenda items and submissions on Privacy from those parties present. Those parties not present would present their submissions at the next Theme Committee meeting.

2. MINUTES

- 2.1 The minutes of the Theme Committee meeting of 20 March were adopted without corrections.

3. MATTERS ARISING

- 3.1 The following matters arising were noted from the minutes of the previous meeting:
 - i) Oral Submissions (7.2)
 - ii) Human Rights Treaties list (7.3)
- 3.2 It was agreed that item (i) be dealt with under agenda item 6.
- 3.3 The Committee were informed that with regards item (ii), the Technical Committee submitted a revised list to the Secretariat, who forwarded the list to the Department of Foreign Affairs for confirmation.

4. CORE GROUP REPORT

- 4.1 Mr Mdladlana gave a verbal report of the Core Group meeting of 22 March, noting that the following issues had been discussed: -Work Programme; -program for the period 18 - 21 April; public submissions and the agenda for the Theme Committee meeting of the 27 March.
- 4.2 The following decisions were taken:
 - 4.2.1 The meeting of 27 March 1995 would continue deliberations on the Rights to Privacy and Human Dignity. Parties not present in the 20 March meeting, would be asked to present their submissions and public submissions on these rights would be addressed.

4.2.2 The next rights that the Committee would deal with on 3 April would be: Servitude and Forced Labour; and Freedom and Security of the Person. The deadline for party submissions would be 29 March 1995.

4.2.3 The meeting 18 April would deal with Freedom of Expression and Access to Information. The deadline for party submissions would be 7 April 1995.

5. PARTY SUBMISSIONS

5.1 Right to Human Dignity

5.1.1 The ACDP, DP, FF and PAC whose submissions were outstanding were not present and the issue was referred to the next meeting.

5.2 Right to Privacy

Each party was asked to present their submissions following which points of clarity and questions were asked.

5.3 The **ANC** submission was presented by Mr Mfebe who spoke to the document, ***"Right to Privacy: Provisional Submission by ANC Theme Committee Four/Block Two"***.

5.3.1 Points of clarity and discussion:

Questions to Mr Mfebe included:

- the exclusion of the right to privacy to juristic persons, companies etc.
- the right to reputation should it not be allowed.

Mr Mfebe responded as follows:

- the ANC does not exclude juristic persons but legislation exists in this regard.
- the ANC's understanding of the Right to Privacy is informed by International Human Rights Documents which links Privacy with the individual's right to personal autonomy and not with questions of reputation\ defamation\ libel etc.

5.4 The **IFP** submission was presented by Ms Vos who spoke to the document, ***"IFP Theme Committee 4, Submission for Block 2 on Human Dignity, Right to Life and Privacy"***.

5.4.1 Points of clarity and discussion:

Questions to the IFP included:

- the concept of illegitimacy applied to children "born outside of wedlock".
- the IFP recognition of the right of the family to privacy which omits the

issue of domestic violence.

-the extension of privacy beyond personal autonomy to include communities.

-the concept of "domicile" which could be interpreted as protecting traditional communities from interference by the state.

The IFP responded as follows:

-the intention of the IFP submission is to address the rights of children regarded by the law as "illegitimate" and implicit in the IFP submission is the need to protect women and children from abuse and violence.

-the intention is not to protect traditional communities only but any formations of people coming together for a particular purpose e.g. sports clubs etc.

- 5.5 The NP submission was presented by Sen. Radue who spoke to the document, ***"Theme Committee 4: National Party Preliminary Submission, Block 2: Item 4: The Right to Privacy"***.

5.5.1 Points of clarity and discussion:

Questions to Sen. Radue included:

-the horizontal application of a Bill of Rights and how it may impinge on the right to privacy.

-that the submission seems to concentrate on measures designed to limit individual privacy rather than protect the right to privacy.

-the relationship between the Bill of Rights and common law, which may leave the domain of private apartheid and infringement on individual privacy by private companies, solely to legislation which is often a time consuming process.

Sen. Radue responded as follows:

-the NP believes there must be a positive emphasis on the right to privacy, but its primary position is that the Bill of Rights must be vertical in its application.

-the need for horizontal application may be dealt with through legislation.

6. PUBLIC SUBMISSIONS

- 6.1 The chairperson spoke to the document entitled, ***"Theme Committee 4: Fundamental Rights: Synopsis of Submissions Volume 1 - 7"***, included in the documentation.

- 6.2 The Technical Committee clarified the process and purpose of the synopsis noting that the synopsis is intended to direct the attention of political parties to issues raised by the public which may or may not be covered in party submissions.
- 6.3 Synopsis of submissions on Human Dignity
- 6.3.1 There was general agreement on the points raised in submissions nos 363, 488 and 495 which dealt with " uBuntuism", "Sanctity of Body and Mind" and the rights of mentally retarded persons respectively.
- 6.3.2 It was agreed that since the Theme Committee was not a negotiating forum there was no need to reach agreement on the content of the public submissions. It was further agreed that reports to the Constitutional Assembly include a report on the public submissions.
- 6.3.3 The Technical Committee stressed the importance of the need for all members to read the individual submissions as the synopsis merely functions to facilitate discussion in the Theme Committee.
- 6.4 Synopsis of submissions on Privacy
- 6.4.1 Ms Liebenberg clarified the inclusion of the submission by the Community Law Centre which deals with women's right to reproductive choice as an administrative error. Reproductive\ procreative choice is regarded as a standing provision and not to be included under the right to privacy.
- 6.4.2 The IFP requested that the issue of procreative choice be included under privacy as opposed to the Right to Life.
- 6.4.3 The Technical Committee was of the opinion that the issue of reproductive\ procreative choice needs to be dealt with as a separate issue and not under the Right to Life and will propose a revision of the work programme accordingly.
- 6.4.4 The chairperson noted that the work programme is not under discussion but agreed to an adjournment to allow parties to discuss the public submissions.
- 6.5 With regard to public submissions, the Committee agreed that all parties would consider their responses to the public submissions in preparation for the next meeting.

6.6 It was also agreed that the Technical Committee consider methods of isolating matters of consensus and non-consensus in the public and party submissions.

6.7 Oral hearings

6.7.1 It was agreed that the matter needed further attention especially with regards to the time pressures faced by the Committee.

7. TECHNICAL COMMITTEE REPORT

7.1 Work Programme

7.1.1 The Technical Committee opened the discussion of the Work Programme of the Theme Committee, by noting inter alia, that: - the original programme was based on Chapter 3 of the Interim Constitution; - this was not necessarily the best way or most efficient way to approach a Bill of Rights.

7.1.2 The Technical Committee therefore proposed the following:

- i) the need to cluster similar related rights together;
- ii) the need to delay deliberations on Equality and Life in order to allow the parties time to consider these rights in more detail;
- iii) the grouping of socio-economic rights in one cluster, to include property, economic activity, labour relations and other rights not included in Chapter 3 of the Interim constitution.

7.1.3 The Technical Committee's proposals were accepted with the following additions:

- i) The Work Programme should also be guided by those issues that are contentious, such that there is enough time to deal with these issues.
- ii) Rights\ issues that are important to the public should be moved up the order in the Work Programme.
- iii) Rights not included in Chapter 3 of the Interim Constitution should also be addressed.

7.1.4 It was agreed that the Technical Committee prepare a draft Work Programme to be considered by the Theme Committee at the next meeting.

8. ANY OTHER BUSINESS

8.1 None.

9. CLOSURE

The meeting rose at 16h30.

THEME COMMITTEE 4

FUNDAMENTAL RIGHTS

SYNOPSIS OF SUBMISSIONS

VOL 1 - 7

- Right to Privacy**
- Servitude and Forced Labour**
- Freedom and Security of the Person**

- RIGHT TO PRIVACY

Shaku TM (9): Privacy clause should allow for precautionary measures to prevent the circumventing of this right. This right should also allow for forfeiture of the right.

Confederation of Employers of Southern Africa (28); Dekenah R (105): Right to privacy should be included.

Shaku TM (48) : The following clause or a similar one be added to section 30 of the Interim Constitution:

"Except in circumstances where prior permission is sought/granted. Such a forfeiture shall be consistent and confined to the purpose on hand as determined by the prevailing circumstances." In my view, precautionary measures "safety-valves" should be inserted in the provision in order to circumvent a likely situation of abuse of such a right. Although, procedurally, a search warrant should be sought prior to executing a search, the citizenry should be made aware of the fact that the state has access to the personal properties if they are misused to perpetrate criminal acts or acts violating the interests of either the state or its citizens."

ARAG (Abortion Rights Action Group) (125): The privacy clause in the Bill of Rights should be expanded to include reference to freedom to make reproductive decisions, in particular to choose early abortion.

Conference Report, Community Law Centre, UWC (168): Submission of workshop on reproductive rights: The constitution should make specific provision for women's rights to reproductive choice, including access to safe contraception and abortion, as well as the right to have children.

Conservative Party of South Africa (173): Right to physical integrity and private life in clause 11.3.2 of the proposed Volkstaat bill of rights. Right to confidentiality of all forms of communication proposed in clause 11.9.2.

Kyam A (181): The police must have no right to enter your home. No longer must there be such a thing as anonymous. (If a guy lays a charge against you. Then you have the right to know who has made the charge.)

Citizens Commission on Human Rights (320): Mental patients should have the right to privacy.

Wright DB (327): There should be no political interference in the workplace.

Anonymous (339): The right of privacy to be taken into account by police.

Egleton DM (388): Every person shall have right to privacy except in case of a police warrant, criminal offence.

Lusengo DM (426): The state should play a role in allowing people to get married, as the state bears the brunt of broken marriages.

Vaughan HG (475): Privacy of the individual, his family and home is sacrosanct.

ML Sultan Teknikon (486): The right to privacy should not be infringed by other rights, eg right to religion.

Anonymous (488): Support for privacy.

Kerr AJ (490): The contradiction between personal privacy and private communication as explained in Section 13 of the Interim Constitution should be clarified.

**** Submissions dealing with sexual orientation and abortion have been located with the Rights to Equality and Life respectively. This does not however imply any judgement by the compilers of the synopsis, but rather an attempt to sort the submissions along the items identified in the Work Programme.**

- SERVITUDE AND FORCED LABOUR

Conservative Party of South Africa (173): Draft Constitution Clause 11.10

- 11.10.3 No person shall be forced to perform a specific task or specific labour, save when it is done as a duty given to everyone in equal measure in the general interest.

- 11.10.4 Forced labour shall only be permissible when it occurs in terms of a legal court order or as punishment after conviction by a court of law.

- FREEDOM AND SECURITY OF THE PERSON

JA McMorran (17) : Criminal procedural guarantees to be included.

Algemene Kommissie Leer and Aktuele Sake, Ned. Geref. Kerk (34) : The right to protection and personal safety be included.

BM Collier (43) : "The granting of bail in cases of murder, rape, child molesting, etc must not be the right of the subject, and should it be retained, the period of time, for which suspects can be held in custody, be extended to at least 2 weeks in order for full preliminary investigations and submissions to be made."

MS Dimba (44) : Murderers must not qualify for bail.

Rape Crisis (endorsed by various other organisations) (50) : A separate right be included called **Protection from violence**, to read as follows:

Every person shall have the right to be protected from physical, mental or emotional abuse or violence based on race, gender, sex, ethnic or social origin, colour, sexual orientation, age disability, religion, conscience, belief, culture or language.

In addition, this right shall subject to section 33(I)(b) of Chapter 3. Alternatively, this clause be included as a subsection of section 11, as 11(3)

South African Anglican Theological Commission of the Church of the Province of South Africa (81) : The right of habeas corpus should be upheld. Those arrested should have the right to adequate legal protection and to visits from their family. There must be no detention without trial. Legal process should be speedy and sentencing should be consistent. All must have access to legal resources. Capital and corporal punishment must be outlawed. Anyone arrested or duly sentenced must be humanely treated and torture must be outlawed. Anyone arrested or duly sentenced must be humanely treated and torture must be outlawed and prevented. The Bill of Rights should guarantee certain rights to all prisoners, including: legal representation, medical treatment, and access to family and religious ministrations. Prisons should be regularly inspected by an independent body.

Conference Report, Community Law Centre, UWC (168) : Submission of workshop on Violence against Women: A separate right should be included in the Bill of Rights which places a specific obligation on the state to ensure that women are protected from violence in the public and domestic spheres: Such clause could be included under the heading of Freedom and Security of the Person (s 11 of the interim Constitution).

CR Snyman (193) : Every person shall have the right to live in an environment which is as free as possible of crime.

Conservative Party of South Africa (173) : Right to personal freedom in clause 11.3.2 of the Draft Constitution:

11.3.2 Every person shall have the right to life, to bodily integrity, to his own personal freedom and private life. These rights may only be infringed upon in terms of an act of the House of Assembly in which the authority, limitations and procedures for such deprivation of freedom are explicitly and carefully prescribed; provided that an act:

- 11.3.2.1 *DOES NOT CREATE MISDEMEANOURS WITH RETROSPECTIVE POWER;*
- 11.3.2.2 *DOES NOT LEAD TO THE INDEMNIFICATION OF GOVERNMENT PERSONS OR INSTITUTIONS FOR UNLAWFUL MURDER OF OR INJURY TO PERSONS OR DAMAGE PROPERTY;*
- 11.3.2.3 *DOES NOT AUTHORISE THE DETENTION OF A PERSON WITHOUT TRIAL FOR A PERIOD EXCEEDING 48 HOURS; WITH THE PROVISO THAT IN CASES WHERE THE SECURITY OF THE STATE IS BEING ENDANGERED OR CAN BE ENDANGERED, NO PERSON MAY BE DETAINED FOR A PERIOD EXCEEDING 72 HOURS WITHOUT THE PERMISSION OF OR AN ORDER FROM THE SUPREME COURT; PROVIDED FURTHER THAT IF A STATE OF EMERGENCY IS ANNOUNCED BY THE STATE PRESIDENT A PERSON MAY BE DETAINED WITHOUT TRIAL FOR A PERIOD NOT EXCEEDING 60 DAYS, AFTER WHICH HE MUST BE CHARGED OR FREED.*

Friedman A (175) : No bail or amnesty for car hijacking, violent attacks in homes, robberies and murders.

Zitha NR (176) : The active hand of housebreakers and thieves should be amputated or both if caught for the second time.

Goodwin HJ (187) : Aspects of criminal procedure not to be included in the constitution.

Jacobson MD (269) : Our new constitution should contain a clause which makes the use of torture by the police illegal and prohibits the perpetrators of police torture from being exonerated. Clause 11(1) and (2) of the Interim Constitution must be entrenched within the Final Constitution.

Deller B (382) : Bail as a right must be revoked.

Thabethe A (472) : Speedy trial to prevent unnecessary detention.

ISSUES ARISING FROM SUBMISSIONS ON FREEDOM AND SECURITY OF THE PERSON

****** *Please note that this section is a suggested approach which could be followed in the future to allow parties to make better use of the submissions and the synopsis.*

Parties are asked to consider this approach and make recommendations

Detention without trial: *Thabethe A (472); Goodwin HJ (187); Conservative Party of South Africa (173); South African Anglican Theological Commission of the Church of the Province of South Africa (81); JA McMorran (17).*

Physical and mental integrity: *Jobson MD (269).*

Abortion: *See Submissions on Abortion above.*

Bail: *JA McMorran (17); BM Collier (43); MS Dimba (44); Friedman A (175); Deller B (382).*

Women: *Conference Report, Community Law Centre, UWC (168);*

Application: Duty to be imposed on the state: *Rape Crisis (endorsed by various other organisations) (59); Conference Report, Community Law Centre, UWC (168); CR Snyman (193)*

Application: Limitation by the legislature: *Rape Crisis (endorsed by various other organisations) (59); Conservative Party of South Africa (173).*

THEME COMMITTEE 4

FUNDAMENTAL RIGHTS

**RECOMMENDED REVISED WORK
PROGRAMME**

DISCUSSION DOCUMENT: REVISED WORK PROGRAMME

T/C MEETING	ITEMS
	1. Constitutional Principle II
	2. Nature of Bill of Rights and application 3. Human Dignity 4. Privacy
3 April 1995	5. Servitude and Forced Labour 6. Freedom and Security of the person
19 April 1995	7. Freedom of Expression 8. Access to Information
21 April 1995	9. Freedom of Religion, belief and opinion 10. Freedom of Association 11. Freedom of Demonstration and Petition
24 April 1995	12. Life
8 May 1995	13. Socio-Economic Rights i) Property ii) Education iii) Environment iv) Economic Activity v) Labour Relations vi) Freedom of Language and Culture vii) Other socio-economic rights
15 May 1995	14. Childrens rights 15. Reproductive rights
22 May 1995	16. Equality
29 May 1995	17. Political Rights 18. Citizens' rights 19. Freedom of movement 20. Freedom of residence
5 June 1995	21. Administrative justice 22. Access to Courts 23. Detained, arrested and accused persons
12 June 1995	24. Other fundamental rights and directive principles
19 June 1995	25. Limitation of rights 26. States of emergency and suspension of rights
20 June 1995	27. Interpretation of Bill of Rights 28. Class actions

21 June 1995

29. Other issues

THEME COMMITTEE 4
FUNDAMENTAL RIGHTS

CA SCHEDULE

CONSTITUTIONAL ASSEMBLY SCHEDULE

27 MARCH - 1 JULY 1995

Date	Event	Time	Venue
Monday 27 March	Theme Committee 1	08h30 - 12h00	M515
	Theme Committee 2	08h30 - 12h00	M46
	Theme Committee 3	08h30 - 12h00	E249
	Management Committee	11h00 - 13h00	V16
	Theme Committee 4	14h00 - 17h30	M46
	Theme Committee 5	14h00 - 17h30	V227
	Theme Committee 6*	14h00 - 17h30	E249
Thursday 30 March	Management Committee Party Caucuses Deadline for reports to CC	08h00 - 10h00 10h15 - 13h00	V16
Monday 3 April	Joint workshop on Traditional Authorities	09h00 - 13h00	OAC
	Management Committee*	12h00 - 13h00	V16
	Constitutional Assembly	14h00 - 17h00	Ass
	Theme Committee 1	18h00 - 21h30	M515
	Theme Committee 2	18h00 - 21h30	M46
	Theme Committee 3	18h00 - 21h30	E249
	Core Group - TC 4	18h00 - 20h00	E337*
	Core Group - TC 5	18h00 - 20h00	M201*
Core Group - TC 6	18h00 - 20h00	E340*	
Thursday 6 April	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Friday 7 April	Easter Recess		
Friday 14 April	Deadline for Submissions - Block 3 - 4		
Tuesday 18 April	Core Group - TC 1	14h00 - 17h00	M515*
	Core Group - TC 2	14h00 - 17h00	E216*
	Core Group - TC 3	14h00 - 17h00	G26*
	Core Group - TC 4	14h00 - 17h00	E337*
	Core Group - TC 5	14h00 - 17h00	M201*
	Core Group - TC 6	14h00 - 17h00	E340*
Wednesday 19 April	Theme Committee 4	08h30 - 13h00	M46
	Theme Committee 5	08h30 - 13h00	V227
	Theme Committee 6*	08h30 - 13h00	E249
	Theme Committee 1	14h00 - 18h00	M515
	Theme Committee 2	14h00 - 18h00	M46
	Theme Committee 3	14h00 - 18h00	E249

Thursday 20 April	Management Committee Party Caucuses Theme Committee 1 Theme Committee 2 Theme Committee 3 Core Group - TC 4 Core Group - TC 5 Core Group - TC 6	08h00 - 10h00 10h15 - 13h00 14h00 - 18h00 14h00 - 18h00 14h00 - 18h00 14h00 - 17h00 14h00 - 17h00 14h00 - 17h00	V16 M515 M46 E249 E337* M201* E340*
Friday 21 April	Theme Committee 4 Theme Committee 5 Theme Committee 6* Core Group - TC 1 Core Group - TC 2 Core Group - TC 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 08h30 - 12h30 08h30 - 12h30 08h30 - 12h30	M46 V227 E249 M515* E216* G26*
Monday 24 April	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee* Theme Committee 4 Theme Committee 5 Theme Committee 6* Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M515 M46 E249 V16 M46 V227 E249 OAC
Wednesday 26 April	Deadline for reports to CC		
Thursday 27 April	Freedom Day Public Participation Deadline for Submissions - 5 - 6		
Monday 1 May	Workers' Day		
Thursday 4 May	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 6 May and/or	Public Participation		
Sunday 7 May	Public Participation		
Monday 8 May	Theme Committee 4 Theme Committee 5 Theme Committee 6* Management Committee* Theme Committee 1 Theme Committee 2 Theme Committee 3 Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M46 V227 E249 V16 M515 M46 E249 OAC
Thursday 11 May	Management Committee Party Caucuses Deadline for Submissions for Block 7 - 8	08h00 - 10h00	V16
Saturday 13 May and/or	Public Participation		
Sunday 14 May	Public Participation		

Monday 15 May	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee* Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6*	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 17h30 - 21h30 17h30 - 21h30 17h30 - 21h30	M515 M46 E249 V16 Ass M46 V227 E249
Wednesday 17 May	Deadline for reports to CC		
Thursday 18 May	Management Committee Party Caucuses	09h00 - 10h00	V16
Saturday 20 May and/or	Public Participation		
Sunday 21 May	Public Participation		
Monday 22 May	Theme Committee 4 Theme Committee 5 Theme Committee 6* Management Committee* Theme Committee 1 Theme Committee 2 Theme Committee 3 Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M46 V227 E249 V16 M515 M46 E249 AC
Thursday 25 May	Management Committee Party Caucuses Deadline for Submissions for Blocks 9 - 10	08h00 - 10h00 10h15 - 13h00	V16
Saturday 27 May and/or	Public Participation		
Sunday 28 May	Public Participation		
Monday 29 May	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee* Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6*	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 17h30 - 21h30 17h30 - 21h30 17h30 - 21h30	M515 M46 E249 V16 Ass M46 V227 E249
Wednesday 31 May	Deadline for reports to CC		
Thursday 1 June	Management Committee Party Caucuses	08h00 - 10h00	V16
Saturday 3 June and/or	Public Participation		
Sunday 4 June	Public Participation		

Monday 5 June	Theme Committee 4 Theme Committee 5 Theme Committee 6* Management Committee* Theme Committee 1 Theme Committee 2 Theme Committee 3 Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M46 V227 E249 V16 M515 M46 E249 OAC
Thursday 8 June	Management Committee Party Caucuses	08h00 - 10h00	V16
Saturday 10 June and/or	Public Participation		
Sunday 11 June	Public Participation		
Monday 12 June	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee* Theme Committee 4 Theme Committee 5 Theme Committee 6* Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M515 M46 E249 V16 M46 V227 E249 OAC
Thursday 15 June	Management Committee Party Caucuses	08h00 - 10h00	V16
Saturday 17 June and/or	Public Participation		
Sunday 18 June	Public Participation		
Monday 19 June	Theme Committee 4 Theme Committee 5 Theme Committee 6* Management Committee* Constitutional Assembly	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00	M46 V227 E249 V16 Ass
Tuesday 20 June	Core Group - TC 1 Core Group - TC 2 Core Group - TC 3 Core Group - TC 4 Core Group - TC 5 Core Group - TC 6 Theme Committee 1 Theme Committee 2 Theme Committee 3 Deadlines for reports to CC	08h30 - 11h00 08h30 - 11h00 08h30 - 11h00 11h00 - 13h00 11h00 - 13h00 11h00 - 13h30 14h00 - 17h00 14h00 - 17h00 14h00 - 17h00	M515* E216* G26* E337* M201* E340* M515 M46 E249
Wednesday 21 June	Theme Committee 4 Theme Committee 5 Theme Committee 6* Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h00 14h00 - 18h00 14h00 - 18h00	M46 V227 E249 M515 M46 E249

Thursday 22 June	Management Committee Party Caucuses Theme Committee 1 Theme Committee 2 Theme Committee 3	08h00 - 10h00 14H00 - 18H00 14H00 - 18H00 14H00 - 18H00	V16 M515 M46 E249
Friday 23 June	Theme Committee 4 Theme Committee 5 Theme Committee 6*	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00	M46 V227 E249
Saturday 24 June and/or	Public Participation		
Sunday 25 June	Public Participation		
Monday 26 June	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee* Theme Committee 4 Theme Committee 5 Theme Committee 6* Constitutional Committee	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h30 14h00 - 17h30 14h00 - 17h30 18h00 - 22h00	M515 M46 E249 V16 M46 V227 E249 OAC
Tuesday 27 June	Core Group - TC 4 Core Group - TC 5 Core Group - TC 6 Core Group - TC 1 Core Group - TC 2 Core Group - TC 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h00 14h00 - 18h00 14h00 - 18h00	E337* M201* E340* M515* E216* G26*
Wednesday 28 June	Theme Committee 4 Theme Committee 5 Theme Committee 6* Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 V227 E249 M515 M46 E249
Thursday 29 June	Management Committee Party Caucuses	08h00 - 10h00	V16
Friday 30 June	Constitutional Assembly	09h00 - 16h00	Ass
Saturday 1 July	Winter Recess		

- * All Core Group Venues subject to confirmation
- * Theme Committee 6 - These incorporate Subtheme meetings
- * MC meetings - can be rescheduled to 11h00 - 13h00 as and when required.
- * CC and CA - Flexibility exists in relation to which meetings are required.

THEME COMMITTEE 4
FUNDAMENTAL RIGHTS

QUESTIONS FOR PARTY SUBMISSIONS

4. Servitude and Forced Labour

INTERIM CONSTITUTION (Excerpts for consideration)

Constitutional Principle II

Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution.

Servitude and forced labour

12. No person shall be subject to servitude or forced labour.

AGENDA ITEMS

1. Content of the right

- 1.1 See CP II and Section 12
- 1.2 Other issues (Parties can make suggestions)

2. Application of the right

- 2.1 Nature of the duty to be imposed on the state.
- 2.2 Application of the right to common law and customary law.
- 2.3 Should the right under discussion impose a constitutional duty on actors other than the state ?
- 2.4 Who should be the bearers of the right ?
Natural persons, citizens, juristic persons ?
- 2.5 Should the right under discussion be capable of limitation by the legislature ?
- 2.6 Other issues (Parties can make suggestions)

5. Freedom and Security of the Person

INTERIM CONSTITUTION (Excerpts for consideration)

Constitutional Principle II

Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution.

Human dignity

10. Every person shall have the right to respect for and protection of his or her dignity.

Detained, arrested and accused persons

25. (1) Every person who is detained, including every sentenced prisoner, shall have the right :

(b) to be detained under conditions consonant with human dignity, which shall include at least the provision of adequate nutrition, reading material and medical treatment at state expense;

AGENDA ITEMS

1. Content of the right

- 1.1 See CP II and Sections 10, 25
- 1.2 Controversial issues:
 - Detention without trial
 - Physical and mental integrity
 - Abortion
- 1.3 Other issues (Parties can make suggestions)

2. Application of the right

- 2.1 Nature of the duty to be imposed on the state.
- 2.2 Application of the right to common law and customary law.
- 2.3 Should the right under discussion impose a constitutional duty on actors other than the state ?
- 2.4 Who should be the bearers of the right ?
Natural persons, citizens, juristic persons ?
- 2.5 Should the right under discussion be capable of limitation by the legislature ?
- 2.6 Other issues (Parties can make suggestions)

6. Freedom of Expression

INTERIM CONSTITUTION (Excerpts for consideration)

Constitutional Principle II

Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution.

Freedom of expression

15. (1) Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media, and the freedom of artistic creativity and scientific research.

(2) All media financed by or under the control of the state shall be regulated in a manner which ensures impartiality and the expression of a diversity of opinion.

AGENDA ITEMS

1. Content of the right

- 1.1 See CP II and Section 15
- 1.2 Controversial issues:-
 - Press Freedom
 - State Controlled media
 - Hate speech
 - Commercial speech
 - Obscene speech
 - Conduct as an expression (picketing etc)
- 1.3 Other issues (Parties can make suggestions)

2. Application of the right

- 2.1 Nature of the duty to be imposed on the state.
- 2.2 Application of the right to common law and customary law.
- 2.3 Should the right under discussion impose a constitutional duty on actors other than the state ?
- 2.4 Who should be the bearers of the right ?
Natural persons, citizens, juristic persons ?
- 2.5 Should the right under discussion be capable of limitation by the legislature ?
- 2.6 Other issues (Parties can make suggestions)

7. Right of Access to Information

INTERIM CONSTITUTION (Excerpts for consideration)

Constitutional Principle II

Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution.

IX

Provision shall be made for freedom of information so that there can be open and accountable administration at all levels of government.

Access to information

23. Every person shall have the right of access to all information held by the state or any of its organs at any level of government in so far as such information is required for the exercise or protection of any of his or her rights.

AGENDA ITEMS

1. Content of the right

- 1.1 See CP II, IX and Section 23
- 1.2 Controversial issues:-
 - Private information (financial, medical, security)
- 1.3 Other issues (Parties can make suggestions)

2. Application of the right

- 2.1 Nature of the duty to be imposed on the state.
- 2.2 Application of the right to common law and customary law.
- 2.3 Should the right under discussion impose a constitutional duty on actors other than the state ?
- 2.4 Who should be the bearers of the right ?
Natural persons, citizens, juristic persons ?
- 2.5 Should the right under discussion be capable of limitation by the legislature ?
- 2.6 Other issues (Parties can make suggestions)